

## **FACILITIES MANAGEMENT ADDITIONAL TERMS AND CONDITIONS**

1. Intent of Contract Documents
2. Errors and Omissions
3. Hourly Rate
4. Employees
5. Dress Code
6. Supervision
7. Back Ground Check
8. Emergencies
9. Safety
10. Licensing
11. Pre-Bid Meeting
12. General Inspection Requirements
13. County's Project Manager
14. Purchase Orders
15. Contract Time
16. Liquidated Damages
17. Hours of Operation
18. Changes in Work
19. Retaining Other Contractors
20. Claims and Disputes
21. Submittals and Equal Products Can Be Considered
22. Labor and Materials Supplied by the Contractor
23. Maintenance of Traffic
24. Underground Utilities
25. Clean up/Surplus Material Removal
26. Protection of Existing Structures, Utilities, Work and Vegetation
27. Sanitation
28. Inspection and Response
29. Final Acceptance
30. Method of Payment
31. Warranty

## **1. INTENT OF CONTRACT DOCUMENTS**

- a) It is the intent of the contract documents to describe a functionally complete Project/Service which defines the scope of work. Any work, materials, or equipment that may reasonably be inferred from the contract documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe work, material or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority having jurisdiction over the Project/Service, whether such reference be specified or by implication, shall mean the latest standard specification, manual, code, law or regulation in effect at the time the work performed, unless specifically stated otherwise herein.
- b) The contract documents and all referenced standards cited therein are essential parts of the contract requirements. A requirement occurring in one is binding as though occurring in all.
- c) Drawings and specifications are intended to agree and be mutually complete. Any item not contained within the drawings, but contained in the specifications, or vice-versa, shall be provided and/or executed as shown in either the drawing or specification at no extra costs to the COUNTY. Should anything not included in either the drawing and/or the specifications be necessary for the proper construction and/or operation of the Project/Service as herein specified, or should any error or disagreement between the specifications and drawings exist or appear to exist, the CONTRACTOR shall not derive unjust benefit thereby, or use such disagreement counter to the best interests of the COUNTY. The CONTRACTOR shall immediately notify the COUNTY's Project Manager of any discrepancy and await the Project Manager's direction before proceeding with the work in question.

## **2. ERRORS AND OMISSIONS**

The Contractor shall not take advantage of any apparent error or omission in the contract documents. If any error or omission appears in the contract documents, the Contractor shall immediately notify the COUNTY in writing of such errors or omissions. In the event the Contractor knows or should have known of any error or omission and failed to provide such notification, the Contractor shall be deemed to have waived any claim for increased time or compensation the Contractor may have had and the Contractor shall be responsible for the results and the costs of rectifying any such error or omission.

## **3. HOURLY RATE**

- a) Any hourly rate quoted shall be deemed to provide full compensation to the vendor for labor, supervision, equipment use, travel time, and all other costs associated with providing the services needed to satisfactorily complete all work provided by the vendor. This rate is assumed to be at straight-time for all labor, except as otherwise noted. If overtime is allowable under this contract, it will be covered under a separate item in the special clauses.

- b) A fixed lump sum price represents the Contractor's base bid plus the optional portion of the Project/Service, including all applicable taxes, materials, labor, supervision, fuel, permits, licenses, management and overhead, unless a duly authorized change order has been issued in accordance with the COUNTY's purchasing policies and procedures.

#### **4. EMPLOYEES**

The Contractor shall provide competent, suitable, and qualified personnel to perform the work as required by the specifications, the Contractor shall be fully responsible for the performance of his/her organization and completion of all work under this Contract, and shall, at all times, maintain good discipline and order at the work site. The employee(s) of the Contractor shall be considered at all times its employee(s) and not an employee(s) or agent(s) of COUNTY. The Contractor shall provide trustworthy, reliable employees and shall make a good faith effort to retain the same employees to service Lake County.

#### **5. DRESS CODE**

- a) The Contractor shall maintain a dress code for their employee's with a minimum of shirts, pants and work shoes/boots, in decent condition, at all times while the work is being performed. The Contractor's employees shall be neat and clean in appearance and a form of identification that clearly identifies them as employees of the Contractor.
- b) All workers shall be required to wear an ID badge identifying them as approved Vendors. Lake County will supply the ID badges. The Contractor will ensure that all workers employed under this contract, whether employed by the Contractor or a subcontractor are scheduled, prior to assignment, for an appointment during the County's normal working hours with the County's Project Manager, to process and receive the ID badge. All new workers must be assigned an ID badge prior to starting work. The contractor should be aware that it may take up to one week to receive ID badges after required information has been received and pictures have been taken.

#### **6. SUPERVISION**

The Contractor shall at all times have at the Project/Service as its agent a competent superintendent capable and thoroughly experienced in the type of work being performed, who shall receive instructions from the COUNTY. The superintendent shall supervise all trades, direct all Project/Service activities, establish and maintain installation schedules, and provide the COUNTY's Project Manager with progress reports as requested. The superintendent shall have full authority to execute the orders or directions of the COUNTY, and if applicable to supply promptly any materials, tools, equipment, labor and incidentals which may be required. Such superintendent shall be furnished regardless of the amount of work sublet. The Contractor's superintendent shall speak, write, and understand English and shall be on the job site during all working hours.

#### **7. BACKGROUND CHECK**

If required by the COUNTY for any Project/Service, the Contractor shall provide the COUNTY with a complete list of personnel, subcontractors, and representatives of the Contractor that shall be utilized for that Project/Service. The list shall include a full name,

address, telephone number, copy of social security card, and a copy of driver's license/State of Florida identification card/valid passport/valid work visa. Background checks may be performed by the Lake County Sheriff's Office at no expense to the Contractor, on a Task by Task basis or may be utilized for the term of the contract, At no time shall any person associated with the Contractor be granted access to perform work on COUNTY property prior to a completed background check. All decisions related to the approval of background checks shall be made by the Lake County Sheriff's Office. All decisions are final. The Contractor must remove any employee, with access to COUNTY facilities, from COUNTY service who is convicted of a felony crime during the time this Agreement is in effect. Failure of the Contractor to obtain background checks if specified may result in termination of this Agreement. The COUNTY reserves the right to require immediate removal of any employee from COUNTY property it deems unfit for service for any reason. This right is non-negotiable and the Contractor agrees to this condition by accepting this Agreement. The Contractor shall have enough qualified people with current background checks so as to be able to provide a replacement within twenty-four (24) hours.

## **8. EMERGENCIES**

- a) If required by the Scope of Work, the Contractor shall have a responsible person available at, or reasonably near the County on a twenty-four (24) hour basis, seven (7) days a week, who may be contacted in emergencies and in cases where immediate action must be taken to handle any problem that might arise. The Contractor's responsible person for supervision of emergencies shall speak and understand, both verbally and in writing, the English language. The Contractor shall submit to the County's Project Manager, the phone numbers and names of personnel designated to be contacted in cases of emergencies. Included in this list shall be twenty-four (24) hour contact phone numbers for all subcontractors, if any, performing work under this agreement. This list shall contain the name of their supervisors responsible for work pertaining to this contract.
- b) If required by the Scope of Scopes, the Contractor shall have a responsible person available at, or reasonably near, the Project/Service on a twenty-four (24) hour basis, seven (7) days a week, who may be contacted in emergencies and in cases where immediate action must be taken to maintain traffic or to handle any other problem that might arise. The Contractor's responsible person for supervision of emergencies shall speak and understand, both verbally and in writing, the English language. The Contractor shall submit to the COUNTY'S Project Manager, the phone numbers and names of personnel designated to be contacted in cases of emergencies. Included in this list shall be a twenty-four (24) hour contact phone number for all subcontractors, if any, performing work under this Agreement. This list shall contain the name of their supervisors responsible for work pertaining to this Agreement. In the event of an emergency affecting the safety or protection of persons, or the work or property at the Project/Service site or adjacent thereto, the Contractor, without special instruction or authorization from the COUNTY is obligated to act to prevent threatened damage, injury or loss. The Contractor shall contact the COUNTY as soon as possible by telephone and with written notice as soon as feasible thereafter, but no later than twenty-four (24) hours after the occurrence of the emergency, if the Contractor believes that any significant changes in the work or variations from the contract documents has occurred. If the COUNTY determines that a change in the contract documents is required because of the action taken in response to an

emergency, a change order request shall be issued to document the consequences of the changes or variations. If the Contractor fails to provide written notice within the twenty-four (24) hour limitation noted above, the Contractor shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the contract amount or an extension to the contract time.

## **9. Safety**

- a) The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work and for complying with all requirements of the Occupational Safety and Health Administration (OSHA) and any other industry, federal, state or local government standards, including the National Institute of Occupational Safety Hazards (NIOSH), and the National Fire Protection Association (NFPA). The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to persons or property. The Contractor shall be aware that while working for the COUNTY, representatives from agencies such as OSHA are invitees and need not have warrants or permission to enter the work site. Any fines levied by the above-mentioned authorities for failure to comply with these requirements shall be borne solely by the Contractor.
- b) Contractor certifies that all material, equipment, etc. to be used in an individual Project/Service meets all Occupational Safety and Health Administration (OSHA) requirements. The Contractor further certifies that if any of the material, equipment, etc. is found to be deficient in any OSHA requirement in effect on the date of delivery, all costs necessary to bring the material, equipment, etc. into compliance with the aforementioned requirements shall be borne by the Contractor. All standard equipment, work operations, safety equipment, personal protective equipment, and lighting required or mandated by State, Federal, OSHA, or Americans with Disabilities Act (ADA) regulations must be provided and used by the Contractor and its employees.
- c) All safety devices installed by the manufacturer on equipment utilized by the Contractor on the jobsite shall be in place and in proper working order at all times. If the COUNTY determines that the equipment is deficient in safety devices, the Contractor shall be notified immediately. The Contractor shall immediately repair, or remove the equipment from service until the deficiency is corrected to the satisfaction of the COUNTY.
- d) The COUNTY may periodically monitor the work site for safety. Should there be safety and/or health violations, the COUNTY shall have the authority, but not the duty, to require the Contractor to correct the violation in an expeditious manner. If there is any situation that is deemed unsafe by the COUNTY, the Project/Service will be shut down immediately upon notice and will not resume work until the unsafe condition has been remedied.
- e) Should the work site be in a hazardous area, the COUNTY shall take reasonable actions to furnish the Contractor with information concerning hazards such as the types or the identification of known toxic material, machine hazards, Material Safety Data Sheets, or any other information that would assist the Contractor in the planning of a safe work site. The Contractor retains the ultimate responsibility to ensure all work is performed in a manner consistent with all applicable safety standards and directives.

- f) Contractor shall erect and maintain, as required by existing conditions and contract performance, safeguards for safety and protection such as barricades, danger signs, a construction fence, and other warnings against hazardous conditions.
- g) Contractor shall be responsible for the removal of all surplus material and debris from the Project/Service site at the end of each work day. All costs associated with clean-up and debris removal shall be included in the lump sum price stated elsewhere herein. The Contractor shall leave the site clean and neat. All work must be cleaned up prior to the next day of business. At no time shall the specified work interfere with the regular operating hours of Lake County. The Contractor must have ample cleaning supplies and a minimum of two (2) vacuum cleaners on-site for clean-up. At no time shall the Contractor use County cleaning supplies or equipment. Upon final completion, the Contractor shall thoroughly clean-up all areas where work has been involved as mutually agreed with the COUNTY'S Project Manager. PLEASE NOTE: If at any time the Contractor fails to clean up the work area to acceptable levels the County shall retain outside cleaning services and the actual costs for this service shall be deducted from the Contractor's final payment with the minimum cost of \$50.00 to offset County time for securing services to properly clean and inspect the site.
- h) Contractor shall confine all equipment, materials and operations to the Project/Service site and areas identified in the Contract documents. Contractor shall assume all responsibility for any damage to any such area resulting from the performance of the work.
- i) Contractor is responsible for notifying the COUNTY of any hazardous materials used on the work site and providing the COUNTY a copy of the Material Safety Data Sheets (MSDS). Any spillage of hazardous chemicals and/or wastes by the Contractor shall be reported immediately to the COUNTY and cleaned up in accordance with all State and Federal Regulations. The cost of cleanup of any spillage of hazardous chemicals and/or wastes caused by the Contractor shall be the sole responsibility of the Contractor and the COUNTY shall share no responsibility of these costs. A copy of the complete report showing compliance with local, state, and federal agencies shall be given to the COUNTY. If any hazardous chemicals or conditions are discovered during the normal operation, it is the responsibility of the Contractor to immediately contact the COUNTY with a description and location of the condition. The MSDS shall include the following information:
- The chemical name and the common name of the toxic substance
  - The hazards or other risks in the use of the toxic substance, including the potential for fire, explosion, corrosiveness, and reactivity.
  - The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by the exposure to the toxic substances.
  - The primary route of entry and symptoms of exposure.
  - The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.

- The emergency procedure for spills, fire, disposal and first aid.
  - A description in lay terms of the known specified potential health risks posed by the toxic substance intended to alert any person reading this information.
  - The year and month, if available, that the information was compiled, and the name, address and emergency telephone number of the manufacturer responsible for preparing the information.
- j) The Contractor shall designate a competent person of its organization whose duty shall be the prevention of accidents. This person shall be literate and able to communicate fully in the English language because of the necessity to read job instructions and signs, as well as the need for conversing with management personnel. This person shall be the Contractor's Superintendent unless otherwise designated in writing to the COUNTY'S Project Manager. All communications to the Superintendent shall be as binding as if given to the Contractor.

## **10. LICENSING**

The Contractor shall remain appropriately licensed and/or employ the services of a subcontractor who is appropriately licensed throughout the course of the Project/Service. Failure to maintain all required licenses shall entitle the COUNTY, at its option, to terminate this Agreement.

## **11. PRE-BID MEETING**

If required, the Contractors shall attend a mandatory pre-bid meeting. Whether or not there is a mandatory or non-mandatory pre-bid, the contractor shall be required to carefully examine any supplied drawings and/or specifications and be thoroughly aware regarding any and all conditions that may in any manner affect the work to be performed under the contract. If a pre-bid meeting is not required the Contractor shall visit the site to familiarize themselves with the Project/Service, see existing conditions, and take measurements. No additional allowances will be made for lack of knowledge of these conditions

## **12. GENERAL INSPECTION REQUIREMENTS**

- a) Due to the nature of this Agreement, the COUNTY shall at the time of establishment of need, require the Contractor to become fully informed as to the nature and extent of the work required and its relation to any other work in the area, including possible interference from other site activities. Arrangement for Contractor's inspection of facilities or sites and/or activity schedules may be secured from the user department. Failure to visually inspect the facilities or sites may be cause for disqualification of Contractor on that individual Project/Service.
- b) The Contractor shall furnish the COUNTY with every reasonable accommodation for ascertaining whether the work performed and materials used are in accordance with the requirements and intent of the contract documents. If the COUNTY so requests, the Contractor shall, at any time before final acceptance of the work, remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall

restore the uncovered portions of the work to the standard required by the specifications. Should the work so exposed or examined prove unacceptable in the opinion of the COUNTY, the uncovering or removal, and the replacing of the covering or making good of the parts removed, shall be at the Contractor's expense. However, should the work thus exposed or examined prove acceptable in the opinion of the COUNTY, the uncovering or removing and the replacing or the covering or making good of the parts removed, shall be paid for as unforeseen work.

- c) If, during or prior to construction operations, the COUNTY should fail to reject defective work or materials, whether from lack of discovery of such defect or for any other reason, such initial failure to reject shall in no way prevent the COUNTY's later rejection when such defect is discovered, nor obligate the COUNTY to final acceptance or payment, and the Contractor shall make no claim for losses suffered due to any necessary removals or repairs of such defects.
- d) If, during or prior to construction operations, the COUNTY rejects any portion of the work on the grounds that the work or materials are defective, the COUNTY shall give the Contractor notice of the defect, which notice may be confirmed in writing. The Contractor shall then have seven (7) calendar days from the date the notice is given to correct the defective condition. If the Contractor fails to correct the deficiency within the seven (7) calendar days after receipt of the notice, the COUNTY may take any action necessary, including correcting the deficient work utilizing another contractor, returning any non-compliant goods to the Contractor at the Contractor's expense or terminating the contract. The Contractor shall not assess any additional charge(s) for any conforming action taken by the COUNTY. The COUNTY will not be responsible to pay for any product or service that does not conform to the contract specifications.
- e) Should the Contractor fail to remove and renew any defective materials used or work performed, or to make any necessary corrections in an acceptable manner and in accordance with the contract requirements, within the time indicated in writing, the COUNTY shall have the authority to cause the unacceptable or defective materials or work to be corrected as necessary at the Contractor's expense. Any expense incurred by the COUNTY, whether direct, indirect or consequential, in making said repairs, removals, or renewals shall be paid for out of any monies due or which may become due to the Contractor. A change order shall be issued, incorporating the necessary revisions to the contract documents, including an appropriate decrease to the contract amount. Such costs shall include, but not be limited to, costs of repair and replacement of work destroyed or damaged by correction, removal or replacement of the Contractor's defective work and additional compensation due the COUNTY. The Contractor shall not be allowed an extension of the contract time because of any delay in performance of the Project/Service attributable to the exercise by the COUNTY of the COUNTY's rights and remedies hereunder. If the Contractor fails to honor the change order, the COUNTY may terminate the contract for default.
- f) All work performed and all materials furnished shall be in reasonably close conformity with the tolerances indicated in the specifications. In the event the COUNTY'S Project Manager finds the materials or the finished product in which the materials are used and not within reasonably close conformity to the specifications, the COUNTY'S Project Manager will then make a determination if the work shall be accepted and remain in



place. In this event, the COUNTY'S Project Manager will document the basis of acceptance by a Change Order that will provide for an appropriate deduction as needed in the contract price for such work or materials as the COUNTY'S Project Manager deems necessary to conform to the determination based on the COUNTY'S Project Manager's professional judgment.

- g) When the United States Government or the State of Florida is to pay a portion of the cost of construction, the work will be subject to such inspection by federal or state representatives as deemed necessary, but such inspections will in no case make the United States Government or the State of Florida a party to this contract.

### **13. COUNTY'S PROJECT MANAGER**

The County shall designate a County staff member to act as County's Project Manager. It is agreed to by the parties that the County's Project Manager will decide all questions, difficulties, or disputes, of whatever nature, which may arise relative to the interpretation of the plans, construction, prosecution and fulfillment of the Scope of Services, and as to the character, quality, amount and value of any work done, and materials furnished, under or by reason of this Agreement. The County's Project Manager may appoint representatives as desired that will be authorized to inspect all work done and all materials furnished.

### **14. PURCHASE ORDERS**

Purchase orders shall be issued for projects to the Contractor. Issuance of a purchase order is not a directive to begin work unless otherwise specified. A written notice to proceed is required for the Contractor to schedule or begin work. Email notice is acceptable.

### **15. CONTRACT TIME**

- a) The Contractor shall diligently pursue the completion of the work and coordinate the work being done on the Project/Service by its subcontractors and material suppliers, as well as coordinate the Contractor's work with the work of other contractors so that the Contractor's work or the work of others shall not be delayed or impaired. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures, as well as coordination of all portions of the work under the contract documents.
- b) Should the Contractor be obstructed or delayed in the completion of the work as a result of unforeseeable causes beyond the control of the Contractor, and not due to the Contractor's fault or neglect, the Contractor shall notify the County's Project Manager by telephone as soon as possible and in writing within twenty-four (24) hours after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which the Contractor may have had to request a time extension.
- c) If the Contractor complies with the twenty-for (24) hour notice requirement, the County shall ascertain the fact and the extent of the delay being claimed and recommend an extension to the contract time when, in the County's sole judgment, the findings of fact

justify such an extension. The Contractor shall cooperate with the County's Project Manager's investigation of the delay by providing any schedules, correspondence or other data that may be required to complete the findings of fact. Extensions to the contract time may be granted for only those delays which impact the Contractor's schedule. Extensions of contract time, if approved by the County, must be authorized in writing.

## **16. LIQUIDATED DAMAGES**

- a) Unless otherwise agreed to, weather events are specifically excluded as excused cause for delay under this agreement and no additional days shall be given for rain days.
- b) If the deficiencies have been noted and the remedies have not been completed within the contracted time, the County's Project Manager may send out a notification notifying Contractor of assessment of Liquidated Damages that can be applied for any day over the time allowed per the contract.
- c) The County and the Contractor recognize that, since time is of the essence for this agreement, the County will suffer financial loss if the work is not completed within the time specified. The County will be entitled to assess, as Liquidated Damages, but not as a penalty, for each calendar day after the scheduled completion date the project continues. The project shall be deemed to be completed on the date the work is considered complete to the satisfaction of the County. The Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the Liquidated Damages as a penalty. The parties agree that the Liquidated Damages sum represents a fair and reasonable estimate of the County's actual damages at the time of contracting if the Contractor fails to complete the work in a timely manner. The Liquidated Damages shall be as follows:

| <b><u>Specific Project Amount</u></b>         | <b><u>Daily Charge Per Calendar Day</u></b> |
|---|---|
| \$5,000 and under.....                        | \$ 25                                       |
| Over \$5,000 but less than \$10,000.....      | \$ 65                                       |
| \$10,000 or more but less than \$20,000 ..... | \$ 91                                       |
| \$20,000 or more but less than \$30,000 ..... | \$121                                       |
| \$30,000 or more but less than \$40,000 ..... | \$166                                       |
| \$40,000 or more but less than \$50,000 ..... | \$228                                       |
| \$50,001 or more .....                        | \$250                                       |

- d) County shall retain from the compensation to be paid to Contractor the above described sum. Any Contractor that is in default for not completing the work within the time specified, at the option of the County, may not permitted to perform work for the County until the project is complete and the liquidated damages sum is satisfied.

## **17. HOURS OF OPERATION**

- a) Unless otherwise specified in the technical specifications, all work performed shall be accomplished between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday, and no work shall be performed on Saturdays, Sundays, or County Holidays, unless permission to work has been requested in writing by the Contractor and approval, in writing, has been granted by the County. Request for permission to work must be

received by the County's Project Manager no less than two (2) days prior to the requested workday. The exception to this pre-approval requirement would be in the case of an emergency in which the emergency specification as outlined in Facilities Management Additional Terms and Conditions, Section 8, Emergencies, would apply. County Holidays are as follows:

New Year's Day  
Martin Luther King, Jr. Day  
Presidents' Day  
Memorial Day  
Independence Day  
Labor Day  
Veteran's Day  
Thanksgiving Day  
Day after Thanksgiving  
Christmas Day

- b) Special schedules may be established if necessary because of problems with noise or similar difficulties affecting normal operations within the County facility. When the Contractor requests and is approved for Saturday, Sunday or Holiday work, the County may assess the Contractor the sum of Two Hundred Fifty Dollars (\$250.00) per man per day for each Saturday, Sunday or recognized Holiday worked or planned to work. These fees will be deducted from the final invoice.

## **18. CHANGES IN SCOPE OF SERVICES**

- a) The County may at any time, by written change order executed in accordance with the County's Purchasing Policies and Procedures, increase or decrease the scope of this Agreement. For changes in work requested by Contractor, the Contractor shall prepare and submit change order requests for COUNTY approval. Each change order shall include time and monetary impacts of the change, whether the change order is considered alone or with all other changes during the course of the Project/Service. Both the COUNTY and the Contractor shall execute the change order.
- b) The value of such extra work or change shall be determined by the contract unit values, if applicable unit values are set forth in this Agreement. The amount of the change shall be computed from such values and added to or deducted from the contract price. If the COUNTY and the Contractor are unable to agree on the change order for requested change, the Contractor shall, nevertheless, promptly perform the change as directed in writing by the COUNTY. If the Contractor disagrees with the County's adjustment determination, the Contractor must make a claim pursuant to the Claims and Disputes section herein, or else be deemed to have waived any claim on this matter the Contractor might have otherwise had
- c) Change orders shall not be issued for incidental items or tasks that should have been reasonably construed to be part of the project by the Contractor.
- d) For work not contemplated by the original Agreement, the amount of an increase shall be limited to the Contractor's reasonable direct labor and material costs and reasonable

actual equipment costs as a result of the change (including allowance for labor burden costs) plus a maximum ten percent (10%) markup for all overhead and profit, unless otherwise agreed to in writing by the COUNTY. In such case, the Contractor shall keep and present to the COUNTY an itemized accounting together with appropriate supporting data. In the event such changed work is performed by a subcontractor, a maximum ten percent (10%) markup for all overhead and profit for all subcontractors' direct labor and material costs and actual equipment costs shall be permitted, with a maximum five percent (5%) markup thereon by the Contractor for all of its overhead and profit, for a total overall maximum markup of fifteen percent (15%) of the amount of changed work. All compensation due the Contractor and any subcontractor or sub-subcontractor for field and home office overhead is included in the markups listed above.

- e) The COUNTY shall not be liable to the Contractor for any increased compensation in the absence of a written change order executed in accordance with COUNTY policy. The payment authorized by such a change order shall represent full and complete compensation to the Contractor for labor, materials, incidental expenses, overhead, profit, impact costs and time associated with the work authorized by such change order.
- f) Execution by the Contractor of a properly authorized change order shall be considered a waiver of all claims or requests for additional time or compensation for any activities prior to the time of execution related to items included in the change order.
- g) Upon receipt of an approved change order, changes in the Scope of Services shall be promptly performed. All changes in work shall be performed under the terms and conditions of this Agreement.

## **19. RETAINING OTHER CONTRACTORS**

- a) Nothing herein shall be deemed to preclude the County from retaining the services of other persons or entities undertaking the same or similar services as those undertaken by the Contractor or from independently developing or acquiring materials or programs that are similar to or competitive with the services provided under this Agreement.
- b) While the COUNTY has listed all major items which are utilized by County departments in conjunction with their operations, there may be similar or ancillary items that must be purchased by the COUNTY during the term of this Agreement. Under these circumstances, a County representative will contact the Contractor to obtain a price quote for the similar or ancillary items. The COUNTY reserves the right to award these ancillary items to the Contractor, another vendor based on the lowest price quoted, or to acquire the items through a separate solicitation.

## **20. CLAIMS AND DISPUTES**

- a) Claims by the Contractor shall be made in writing to the County's Project Manager within two (2) business days after the commencement of the event giving rise to such claim or else the Contractor shall be deemed to have waived the claim. All claims shall be priced in accordance with the section in this document entitled "Changes in Work".

- b) The Contractor shall proceed diligently with its performance as directed by the COUNTY, regardless of any pending claim, action, suit, or administrative proceeding, unless otherwise agreed to by the COUNTY in writing. The COUNTY shall continue to make payments on the undisputed portion of the contract in accordance with the contract documents during the pendency of any claim.
- c) Claims by the Contractor shall be resolved in the following manner: (1) Upon receiving the claim and supporting data, the COUNTY shall within fifteen (15) calendar days respond to the claim in writing stating that the claim is either approved or denied. If denied, the COUNTY shall specify the grounds for denial. The Contractor shall then have fifteen (15) calendar days in which to provide additional supporting documentation, or to notify the COUNTY that the original claim stands as is. (2) If the claim is not resolved, the COUNTY may, at its option, choose to submit the matter to mediation. A mediator shall be mutually selected by the parties and each party shall pay one-half (1/2) the expense of mediation. If the COUNTY declines to mediate the dispute, the Contractor may bring an action in a court of competent jurisdiction in and for Lake County, Florida.
- d) Claims by the COUNTY against the Contractor shall be made in writing to the Contractor as soon as the event leading to the claim is discovered by the COUNTY. Written supporting data shall be submitted to the Contractor. All claims shall be priced in accordance with the provisions of the section in this document entitled "Changes in Work". The Contractor shall respond in writing within fifteen (15) calendar days of receipt of the claim. If the claim cannot be resolved, the COUNTY shall have the option to submit the matter to mediation as set forth in (C) above.
- e) Arbitration shall not be considered as a means of dispute resolution.
- f) NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE COUNTY BY REASON OF ANY DELAYS. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the work shall relieve the Contractor of its duty to perform or give rise to any right to damages or additional compensation from the COUNTY. The Contractor expressly acknowledges and agrees that the Contractor shall receive no damages for delay. However, this provision shall not preclude recovery or damages by the Contractor for hindrances or delays due solely to fraud, bad faith or active interference on the part of the COUNTY. Otherwise, Contractor shall be entitled to extensions of the contract time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

## **21. SUBMITTALS AND EQUAL PRODUCTS CAN BE CONSIDERED**

- a. Submittals of all products that are required for the Project/Service shall be supplied to the County for pre-approval prior to the start of any work. These documents shall be provided to the County at least one (1) week before the installation.
- b. If a product or service requested by this Project/Service has been identified in the specifications by a brand name, and has not been notated as a "No Substitute" item, such

identification is intended to be descriptive and not restrictive, and is to indicate the quality and characteristics of product or service that will be acceptable. Vendors offering an alternate product will be considered for award if such product is clearly identified in the proposal. The County shall make a determination whether the alternate fully meets the salient characteristic requirements listed in the specifications. An alternate product will not be considered for any item notated "No Substitute".

- c. Unless the vendor clearly indicates in its bid or proposal that it is proposing an alternate product, the bid or proposal shall be considered as offering the same brand name referenced in the specifications. If the vendor proposes to furnish an alternate product or service, the brand name of the product or service to be furnished shall be clearly identified. A formal submittal for the alternate/shop drawings shall be submitted. The evaluation of the bid or proposal and the determination as to acceptability of the alternate product or service shall be the responsibility of the County and will be based upon information furnished by the vendor. The County will not be responsible for locating or securing any information which is not included in the bid or proposal. To ensure that sufficient information is available, the vendor shall furnish as part of the bid or proposal all descriptive material by providing the manufacturer specification sheets so the County can make an informed determination whether the product offered meets the salient characteristics required by the specifications. Failure to do so will require the use of the specified products.

## **22. LABOR, FUEL, EQUIPMENT, & MATERIALS SHALL BE SUPPLIED BY THE CONTRACTOR**

Unless otherwise stated in this solicitation the Contractor shall furnish all labor, fuel, equipment, and materials necessary for satisfactory contract performance. When not specifically identified in the technical specifications, such materials and equipment shall be of a suitable type and grade for the purpose. All material, workmanship, and equipment shall be subject to the inspection and approval of the County's Project Manager.

## **23. MAINTENANCE OF TRAFFIC (MOT)**

- a) In the event that any of the work is conducted within any public right of way the Contractor shall be responsible for proper MOT. Unless otherwise specified, the standard specifications to be used for the work shall be the most applicable and the most stringent of the following:

Maintenance of traffic shall be the responsibility of the Contractor, is part of the Contractor's proposal price, and shall conform to F.D.O.T.'s most current editions of "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION," 2013 edition (or latest edition), or FDOT "ROADWAY AND TRAFFIC DESIGN STANDARDS," 2002 (or latest edition), or FDOT "MANUAL OF UNIFORM MINIMUM STANDARDS FOR DESIGN, CONSTRUCTION AND MAINTENANCE FOR STREETS AND HIGHWAYS," 2002 (or latest edition), Federal Highway Administration (FHWA) "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)," 2009 (or latest edition), and all supplemental specifications thereto. These documents can be ordered from F.D.O.T, Maps and

Publications Department, 605 Suwannee Street, Tallahassee, Florida, 32399-0450, or by going to the F.D.O.T. website at: [www.dot.state.fl.us/mapsandpublications](http://www.dot.state.fl.us/mapsandpublications).

- b) All costs associated with MOT must be included in the Contractor's proposal price. No separate line items for MOT will be included in the cost estimate. If the Contractor does not comply with the F.D.O.T. and the F.H.W.A (i.e. signs, qualified flaggers and/or barricades), the County reserves the right to direct the Contractor to cease operation until deficiencies are corrected. In addition, no road closures shall be allowed except in the case of emergencies.
- c) If the Contractor feels that assistance from an off duty police officer is needed, it shall be the responsibility of the Contractor to hire and pay for this service.
- d) All lane closures shall have the prior approval of the County's Project Manager.
- e) The foregoing requirements are to be considered as minimum and the Contractor's compliance shall in no way relieve the Contractor of final responsibility for providing adequate traffic control devices for the protection of the public and Contractor's employees throughout the work area.
- f) The use of public roads and streets by the Contractor shall provide a minimal inconvenience to the public and traffic. Furthermore, if the Contractor is utilizing the road by driving the slow moving equipment, the operator shall allow no more than three (3) vehicles to be backed up behind them at any time before pulling to the side to let traffic pass.

## **24. UNDERGROUND UTILITIES**

Any required ground digging or subsurface work shall be done in accordance with Chapter 556, Florida Statutes. It shall be the responsibility of the Contractor to have all underground utilities located before any work shall begin. This can be done by contacting Sunshine State One Call. They may be reached by calling 1-800-432-4770. The repairs of any damaged underground utilities as a result of the work being performed by the Contractor shall be the responsibility of the Contractor. The proper utility company shall be contacted immediately to expedite the repairs, if damage has occurred. The County's Project Manager shall also be notified by telephone at the earliest opportunity and shall be followed up with a written explanation of the incident within two (2) days.

## **25. CLEAN UP/SURPLUS MATERIAL REMOVAL**

The Contractor shall be responsible for the removal of all surplus material and debris from the Project/Service site at the end of each work day. All costs associated with clean-up and debris removal shall be included in the lump sum price stated elsewhere herein. The Contractor shall leave the site clean and neat. All work must be cleaned up prior to the next day of business. At no time shall the specified work interfere with the regular operating hours of Lake County. The Contractor must have ample cleaning supplies and a minimum of two (2) vacuum cleaners on-site for clean-up. At no time shall the Contractor use County cleaning supplies or equipment. Upon final completion, the

Contractor shall thoroughly clean-up all areas where work has been involved as mutually agreed with the COUNTY'S Project Manager. **PLEASE NOTE: If at any time the Contractor fails to clean up the work area to acceptable levels the County shall retain outside cleaning services and the actual costs for this service shall be deducted from the Contractor's final payment with the minimum cost of \$50.00 to offset County time for securing services to properly clean and inspect the site.**

## **26. PROTECTION OF EXISTING STRUCTURES, UTILITIES, WORK AND VEGETATION**

- a) All existing structures, utilities, services, roads, trees, shrubbery and property in which the COUNTY has an interest shall be protected against damage or interrupted services at all times by the Contractor during the term of this contract, and the Contractor shall be held responsible for repairing or replacing damaged property to the satisfaction of the COUNTY which is damaged by reason of the Contractor's operation on the property. The Contractor shall be responsible for all unauthorized cutting or damaging of trees and shrubs, including damage due to careless operation of equipment, stockpiling of materials or tracking of grass areas by equipment.
- b) The Contractor shall fully protect the work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made.
- c) All items damaged as a result of Contractor or subcontractor operations, such as but not limited to: sidewalks, irrigation, curbs, pipes, drains, water mains, pavement, mail boxes, turf, County sign, or other property owned by the County or private landowner, shall be either repaired or replaced by the Contractor, at their expense, in a manner prescribed by and at the sole satisfaction of the County.
- d) If in the course of completing work as part of this contract there is an accident that involves the public, the Contractor shall as soon as possible inform the County's Project Manager of the incident by telephone. The Contractor shall follow up in writing within two (2) business days of the incident. If Law Enforcement was involved and has written a report, the Contractor shall forward a copy of the report to the County's Project Manager.
- e) The Contractor shall be responsible for re-grading and re-sodding any areas that are disturbed by the Contractor during the course of the work being completed.

## **27. SANITATION**

If the Project/Service does not involve interior work, the Contractor shall be required to provide and maintain adequate sanitary conveniences for the use of persons employed for the Project/Service. These conveniences shall be maintained at all times without nuisance, and their use shall be strictly enforced. The location of these conveniences shall be subject to the COUNTY'S Project Manager's approval. All such facilities shall be installed and maintained in accordance with applicable federal, state, and local laws.



## **28. INSPECTION AND RESPONSE**

- a) The Contractor shall maintain all work in as-new condition until the final inspection is completed and the work accepted by the County's Project Manager.
- b) Inspections during the project or after completion of the project will be conducted by the County's Project Manager. The final inspection shall be conducted within five (5) business days of receipt of notification from the Contractor. The County's Project Manager will notify the Contractor, if necessary, of any deficiencies with the project. The Contractor shall correct all deficiencies before final acceptance and payment is made.
- c) The Contractor shall notify the County's Project Manager when the deficiencies have been completed and corrected. If the deficiencies are not corrected when inspected, the Contractor shall be notified again in writing about any deficiencies. Once the repairs have been corrected by the Contractor, the County's Project Manager shall make another inspection.
- d) The following is a list of fees that can be assessed to the Contractor during the term of the contract. Along with the fees listed below the Contractor shall be responsible for any re-inspection fees assessed for failed permits by the inspecting authority. These fees are assessed to help offset the additional costs associated with County labor and vehicle usage required for unnecessary inspections or missed meetings. The fee(s) shall be deducted from the final invoice are:

|  |                          |
|--|--------------------------|
| • Missing scheduled appointments   | \$ 70.00 each            |
| • Failure to respond to emergency calls  | \$250.00 per day         |
| • Late to emergency calls  | \$ 36.00 per hour        |
| • Inspected unacceptable workmanship   | \$ 80.00 each inspection |
| • Failure to provide any and all required documentation or reports                               | \$ 75.00 per day         |
| • Failure to pass all inspecting authority re-inspections (within 30 days of initial inspection) | \$250.00 per day         |

- e) The eighty dollar (\$80.00) fee shown above is for re-inspection fee shall be applied for occasions when the Contractor was informed or where it is noted in the punch list about unacceptable workmanship. The fee will be assessed if this is discovered during the third inspection and for any subsequent inspections thereafter.

## **29. FINAL ACCEPTANCE**

- a) When the Project/Service or any portion thereof, as designated by the COUNTY, is ready for its intended use, the COUNTY and any other invited parties shall make an inspection of the Project/Service, to verify its completeness and develop a punch list of items needing completion or correction before final payment will be made. The Contractor shall have ten (10) calendar days to correct all deficiencies.
- b) When the work provided for under this Agreement has been completely performed by the Contractor, and the final inspection has been made by the COUNTY, a final invoice will

be prepared by the Contractor. The amount of this invoice, less any sums that may have been deducted or retained under the provisions of this Agreement, will be paid to the Contractor in accordance with Article 4 of this Agreement, and after the Contractor has agreed in writing to accept the balance due, as determined by the COUNTY, as full settlement of the account under the contract and of all claims in connection therewith. Occupancy by the COUNTY alone does not constitute final acceptance.

- c) The County reserves the right, should an error be discovered in the partial or final estimates, or should proof of defective work or materials used by or on the part of the Contractor be discovered after the final payment has been made, to claim and recover from the Contractor or its surety, or both, by process of law, such sums as may be sufficient to correct the error or make good the defects in the work and materials, including any fees or costs associated with the additional services of the County's Project Manager

### **30. METHOD OF PAYMENT**

- a) The Contractor shall submit their invoice to the **Facilities and Fleet Management Department, 32400 C.R. 473 Leesburg, FL 34788**, after all work has been completed. Invoices shall be hand delivered or mailed. Faxes &/or emails will not be accepted for invoicing. In addition to the general invoice requirements set forth below, the invoice shall reference the specific work element for which billing has been initiated and, if required, include a copy of the acceptance document that was signed by an authorized representative of the County at the time the specific work element was accepted. Submittal of the invoice shall not exceed thirty (30) calendar days from the delivery of the goods or services. Under no circumstances shall the invoices be submitted to the County in advance of the work being completed or delivery and acceptance of the items.
- b) All invoices shall contain the contract and/or purchase order number, date and location of delivery or service, confirmation of acceptance of the goods or services by the appropriate County representative, and a detailed description of the service provided. If parts/materials are used as part of the project/service, the invoice shall be accompanied with a copy of the invoice to the Contractor from their supplier. A service ticket shall be included showing the name of the technician(s), the date the work was completed, the start and completion time of the service, the service rendered, the parts/materials (if any) installed. The Contractor shall also submit with their invoice a completed "Certification of Payment to Subcontractors and Suppliers" form. Failure to submit invoices and certification form in the prescribed manner will delay payment, and the Contractor may be considered in default of contract. Payments shall be tendered in accordance with the Florida Prompt Payment Act, Part VII, Chapter 218, Florida Statutes.
- c) The Contractor shall I included with the final invoice a completed CONTRACTOR'S FINAL PAYMENT AFFIDAVIT (provided at the end of this document). The invoice will not be processed without the form.
- d) If applicable to this contract, all work completed under the terms of this contract shall be paid as a unit price payment at the cost as established in the Pricing/Certifications/Signatures, Pricing Section and as discussed in Scope of Work.

- e) Projects twenty five thousand dollars (\$25,000) and under: The County shall provide a lump sum payment when all project tasks are completed by the Contractor and approved by the County's Project Manager. In order for the County to provide payment, the vendor shall submit a fully documented invoice that provides the basic information set forth below.
- f) The Contractor shall accept compensation provided under the terms of this contract as full payment for furnishing all materials and for performing all work contemplated and embraced under this contract.

### **31. WARRANTY**

- a) All warranties shall begin on the date of the COUNTY'S acceptance and shall last for a period of twelve (12) months unless otherwise specified in the scope of services, plans or specifications. The Contractor shall obtain and assign to the County all express warranties given to the Contractor or any subcontractors by any material suppliers, equipment or fixtures to be incorporated into the Project. The Contractor shall be responsible for registering all required materials with the manufacturer and shall provide documentation verifying that registration has been completed. The Contractor warrants to the County that any materials and equipment furnished under the Contract Documents shall be new unless otherwise specified, and that all work shall be of good quality, free from all defects and in conformance with the Contract Documents. The Contractor further warrants to the County that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. Unless otherwise specified in the solicitation or the plans, if within twelve (1) months after final completion and acceptance, any work is found to be defective or not in conformance with the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the County. The Contractor shall also be responsible for and pay for replacement or repair of adjacent materials or work which may be damaged as a result of such replacement or repair. These warranties are in addition to those implied warranties to which the County is entitled as a matter of law.
- b) If sod is used as part of this project it shall be warranted to be free of noxious and invasive weeds, disease, and insects. If pests and/or noxious weeds manifest themselves within sixty (60) days of placement of the sod, the Contractor shall treat the affected areas. The process for treating these areas shall be approved by the County's Project Manager. If the sod does not meet any of the specifications within this document, the Contractor shall be responsible to replace it at no expense to the County. It shall be the responsibility of the Contractor to insure that the sod is sufficiently established as previously described within these specifications. If the sod dies or does not become established the Contractor shall be responsible for the replacement at no cost to the County.



# LAKE COUNTY

---

## FLORIDA

---

### **CONTRACTOR'S FINAL PAYMENT** **AFFIDAVIT**

**TO BE SUBMITTED WITH ALL FINAL PAYMENT APPLICATIONS**

#### **STATE OF FLORIDA - COUNTY OF LAKE**

I, \_\_\_\_\_, the undersigned authority (hereafter "Affiant") says of his or her personal knowledge the following:

1. Affiant is the (Title) \_\_\_\_\_ of (Business Name) \_\_\_\_\_  
which does business in the State of Florida, hereinafter called the "Contractor."

2. The Contractor, pursuant to a contract, with the Lake County Board of County Commissioners, hereinafter referred to as the Owner, has furnished or caused to be furnished labor, material, and services for the construction of certain improvements to Real Property as more particularly set forth in said contract(s).

3. This Affidavit is executed by the Contractor for the purposes of obtaining a final payment from the Owner in the amount of \$ \_\_\_\_\_.

4. All work to be performed under the contract has been fully completed, and all contractors, subcontractors, and material suppliers under the contract have been paid in full without exception.

Signed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

BY: \_\_\_\_\_  
Name of Contractor's Business

\_\_\_\_\_  
Affiant

\_\_\_\_\_  
Title of  
Affiant